

REMARKS

This amendment is responsive to the Office Action dated December 16, 2002. Applicants have amended claim 7 and have canceled claim 8. Claims 1-3, 6-7, 9-11 and 14-19 are pending. A version of the amended claims showing changes pursuant to 37 CFR § 1.121(c)(ii) is attached. In the attached version of the amended claims, Applicant has used underlines to indicate inserted matter and brackets to indicate deleted matter.

In the Office Action dated December 16, 2002, the Examiner concluded: "Upon further review and consideration, finality of the office action mailed on 7/26/02 has been withdrawn and the time period for reply has been restarted. The office action remains unchanged however other than the finality being withdrawn. All rejections and objections still stand." This Response is therefore responsive to the Office Action of July 26, 2002, as well.

Claim Rejections Under 35 U.S.C. § 103

In the Office Action, the Examiner rejected claims 1 and 11 under 35 U.S.C. § 103(a) as being unpatentable over Gullino (US 3,897,751) in view of Chung (US 4,279,361). According to the Examiner, Gullino discloses a housing 10 comprising a front panel 14, a rear panel 14, a bottom panel 14, and two side panels 14, and a fluid container support 34 coupled to the housing, and that the housing is used during therapeutic treatment. The Examiner admitted, however, that Gullino fails to disclose a syringe cradle coupled to the housing or the fluid container as recited in claims 1 and 11, but stated that Gullino does disclose medication disseminated to the animal via members 37, 40, 21, and 38. The Examiner further declared that Chung discloses a syringe cradle. The Examiner asserted that it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of Chung to the invention of Gullino to have the syringe means in a stable position in a stable condition and near the animal to be treated. It would further have been obvious to the ordinary skilled artisan, the Examiner continued, to attach the cradle to the housing or the fluid container. The Examiner reasoned that the syringe disclosed by Gullino is in very close proximity to the cage and it would be intuitive to attach it to the cage or fluid container, and to allow for easier handling and transportation.

In the Office Action, the Examiner further rejected claims 2, 3, 7-10 and 14 under 35 U.S.C. § 103(a) as being unpatentable over Gullino in view of Chung, and further in view of

Thrun (US 6,349,675). The Examiner also rejected claim 15, citing Gullino in view of Chung, and Thrun.

According to the Examiner, Gullino as modified by Chung discloses a top panel 16, a securing device 20, a fluid container support 34 and a syringe 37. The Examiner acknowledged that Gullino does not disclose a first and second top panel hingedly attached and coupled to the housing as recited in claims 2, 3, 7-10 and 15, nor does Gullino disclose panels in a closed position covering less than one hundred percent of the top opening as recited in claims 8 and 15. The Examiner asserted, however, that Thrun discloses a first and second top panel hingedly attached to the housing and that the panels are selectively positionable to cover at least a portion of the opening, as they can be opened independently of one another. According to the Examiner, Thrun also discloses panels covering less than one hundred percent of the top opening in the closed position.

The Examiner further acknowledged that Gullino does not disclose a syringe cradle, as recited in claims 2-3, 10, 14 and 15. The Examiner declared that Chung discloses a syringe cradle. The Examiner declared that it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of Chung to the invention of Gullino, for the same reasons given in connection with the rejections of claims 1 and 11.

The Examiner further declared that it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of Thrun to the invention of Gullino as modified by Chung, as the purpose of the doors disclosed by Thrun is to allow access to the interior of the enclosure. The Examiner declared that it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of Thrun to the invention of Gullino as modified by Chung, in order to allow access to the interior of the enclosure without allowing a wide area to possibly permit an animal to escape.

Moreover, the Examiner in the Office Action further rejected claim 6 under 35 U.S.C. § 103(a) as being unpatentable over Gullino in view of Chung, and further in view of Peterson (US 5,988,110). The Examiner asserted that Gullino discloses a window 14. The Examiner acknowledged that Gullino does not disclose a grate, but declared that Peterson teaches a grate. The Examiner declared that it would have been obvious to one of ordinary skill in the art at the

time the invention was made to apply the teaching of Peterson to the invention of Gullino as modified in order to create a cage which would not restrict airflow to the animal.

The Examiner also rejected claims 16-19 under 35 U.S.C. § 103(a) as being unpatentable over Gullino in view of Chung, and further in view of Carlin (US D297,471). The Examiner declared that Gullino as modified by Chung discloses a housing with a syringe cradle attached, and a fluid container support. The Examiner conceded that Gullino as modified does not disclose a post as recited in claims 16 and 18, nor does Gullino as modified disclose a crook-shaped fluid container support as recited in claims 17 and 19. The Examiner declared that Carlin discloses a post and a crook-shaped support. The Examiner further declared that it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of Carlin to the invention of Gullino as modified in order to provide a secure means of support for the syringe cradle which would be out of reach of the animal being treated, and that it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of Carlin to the invention of Gullino as modified in order to hold items in a secure and stable position. The Examiner also declared that “a crook-shaped pole is well-known to be used in therapeutic treatment settings such as this one.”

Applicant traverses the rejections.

Adding features from other references to the Gullino device

In connection with combining references to support an assertion of obviousness, it is well established that the Examiner bears the burden of establishing a prima facie case of obviousness. In re Oetiker, 24 USPQ2d 1443, 1445 (Fed. Cir. 1992). In doing so, the Examiner must determine whether the prior art provides a “teaching or suggestion to one of ordinary skill in the art to make the changes that would produce” the claimed invention. In re Chu, 36 USPQ2d 1089, 1094 (Fed. Cir. 1995). A prima facie case of obviousness is established only when this burden is met.

In a proper obviousness determination, the prior art must give a reason or motivation for making the claimed invention. In re Lee, 61 USPQ2d 1430, 1433 (Fed. Cir. 2002). In re Lee emphasizes that evidence of motivation to combine references is not a trivial requirement, but is rather the best defense against a hindsight-based analysis. Id. In re Lee further emphasizes the

importance of creation of an evidentiary record that supports a conclusion of obviousness. Id. at 1433-34. The findings must be based upon evidence in the record, not upon the subjective belief of the Examiner. See id. at 1434. If there are deficiencies in the evidentiary record, the deficiencies cannot be cured by general conclusions such as “general knowledge” or “common sense.” Id.

The Court of Appeals for the Federal Circuit has made it clear in many decisions that motivation to combine references must be found in the prior art, and that it is impermissible hindsight for the Examiner to use the motivation stated in Applicants’ own disclosure as a blueprint to reconstruct the claimed invention from the prior art. See Interconnect Planning Corp. v. Feil, 227 USPQ 543 (Fed. Cir. 1985); In re Fine, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988); In re Gorman, 18 USPQ 2d 1885, 1888 (Fed. Cir. 1991); Al-Site Corp. v. VSI International, Inc., 50 USPQ2d 1161, 1171 (Fed. Cir. 1999).

A patentable invention may arise from a combination of elements found in the prior art. It is therefore not sufficient for the Examiner merely to identify individual components of an invention in multiple references. E.g., Ruiz v. A.B. Chance Co., 57 USPQ2d 1161, 1167 (Fed. Cir. 2000). The Examiner must demonstrate that a skilled artisan, with no knowledge of Applicants’ claimed invention, would have selected the components for combination in the manner claimed. In re Kotzab, 55 USPQ2d 1313, 1316-18 (Fed. Cir. 2000). It is not sufficient for the Examiner to assert that separate elements of the claimed invention exist in the prior art, or that the elements in different references *could* be combined, or that there is an apparent need for combination of the elements, or that elements may be substitutes for one another. Ruiz v. A.B. Chance Co., 57 USPQ2d at 1167. To establish a prima facie case of unpatentability, the Examiner must provide evidence showing a reason, suggestion or motivation to combine.

The Examiner’s rejections are contrary to these legal principles.

The Examiner has not presented any evidence showing a reason, suggestion or motivation for one having ordinary skill in the art at the time the invention was made to include various features from Chung, Peterson, Thrun or Carlin on a Gullino device. The Examiner has cited advantages of including features from other references on a Gullino device. These advantages, however, are not a motivation to take a feature from one reference and include it on a device described in another reference. On the contrary, the advantages seem to be gleaned from

Applicant's own disclosure, not the cited references. None of the references cited by the Examiner contain evidence of the motivation required by law.

Rather, the Examiner has taken elements from disparate references and combined them ostensibly to produce Applicant's claimed invention (although, as discussed below, combining the references would *not even* produce Applicant's claimed invention), and has pointed to advantages from the combination that are not mentioned in any prior art reference. This is not evidence of a motivation in the prior art to add elements from one reference to a device described by another reference. It is merely a reconstruction of the claimed invention from hindsight, and such reconstruction is plainly improper.

The Examiner has also cited the Examiner's subjective belief about the applicability of the references. For example, the Examiner declared that a syringe cradle could be attached to a housing or a fluid container, because "it would be intuitive" to do so. This is an unsupported speculation. It is not evidence of a proper motivation to combine, as required by In re Lee, 61 USPQ2d at 1433-34. In re Lee disallowed rejections based upon conclusory statements such as "basic knowledge" and "common sense." Id. at 1434-35. A rejection founded upon intuition is certainly improper as well.

Adding Chung features to a Gullino device

In rejection of every one of Applicant's claims, the Examiner has asserted that features disclosed in Chung could be combined with the device disclosed in Gullino. Applicant notes that the Examiner rejected *all* claims, including claims 7 and 9, citing Gullino as modified by Chung. Chung recites no features pertinent to claims 7 and 9, however, and claims 7 and 9 stand on their own merits for reasons to be discussed below.

And yet, there is no motivation whatsoever to take features from Chung and put them on a Gullino device. Gullino describes an animal cage for use in a laboratory or medical environment (Gullino, col, 1, lines 6-7). The Chung apparatus, by contrast, is not used for treatment of any living thing, animal or human. Rather, the Chung device includes a clamping structure for extruding gels from gel tubes in a controlled manner in a laboratory setting. The clamping structure holds a syringe that is operated with a pressure plate driven by a turning handle coupled to a threaded shaft. Turning the handle will rotate the threaded shaft, causing the

pressure plate to drive water into a gel tube to extrude the gel from the gel tube (Chung, cols. 1-2).

“In order to rely on a reference as a basis for rejection of the applicant’s invention, the reference must be in the field of the applicant’s endeavor, or, if not, reasonably pertinent to the particular problem with which the inventor was concerned.” In re Oetiker, 24 USPQ2d at 1445. Chung does not satisfy either criterion. First, Chung is simply not directed to the field of Applicant’s endeavor. Chung is not concerned with administration of fluids to a living thing in general, or to an animal in particular. Second, Chung is not reasonably pertinent to the particular problem with which the inventor was concerned. Chung is directed to the problem of removing gels from glass tubes, without reaming the gel with needles and potentially damaging the tubes (Chung col. 1, lines 21-27). Applicant’s claimed invention is not at all concerned with cleaning gel out of tubes in such a fashion so as not to damage the tubes. Applicant’s concern for animal care is not mentioned in Chung at all.

In addition, there would be no motivation for one skilled in the art to add a Chung clamping frame to a Gullino device, because there is simply no syringe in Gullino. The Examiner asserted at one point that Gullino discloses medication disseminated to the animal via members 37, 40, 21, and 38, and at another point, the Examiner asserted that member 37 is a syringe. The Examiner is incorrect in asserting that Gullino discloses a syringe. In Gullino, element 37 is not a syringe. Element 37, as shown clearly in Gullino Fig. 8, is a spring that protects catheter 30. Gullino col. 4, lines 26-27, col. 5, line 6. Elements 40, 21 and 38 are not syringes, either. Element 21 is another catheter-protecting spring. Gullino col. 3, lines 29-30. Element 40 is a stainless steel cylinder that protects catheter 30, and is harder for the animal to chew than a spring. Gullino col. 5, lines 1-5. Element 38 is a 27-gauge needle that couples catheter 30 to infusion pump 31. Gullino col. 4, lines 45-47. Because the animal in the Gullino device receives fluids *without* a syringe, there would be no motivation for one skilled in the art to add a Chung clamping frame to the Gullino device. There is no member disclosed in Gullino that could mate with the Chung device, and placing the Chung device anywhere on the Gullino device would be completely superfluous. Gullino and Chung disclose no motivation for doing so.

Moreover, the Examiner, in rejecting claims 1, 2, 3, 6, 11 and 14-19, declared that the Chung device could be attached to the fluid container disclosed in Gullino. According to the references cited by the Examiner, however, there would be no motivation for one skilled in the art to do so. The fluid container support in Gullino is a feeding device, not a device for animal treatment, and not a device in any way related to gel removal from tubes. The Chung device has no connection to administration of fluids or to feeding in any way. One skilled in the art of animal treatment/confinement apparatus would have no reason to consider attaching a Chung device to the Gullino feeding device.

Chung fails the Oetiker test. There would have been no reason for a person of ordinary skill, designing a confinement/treatment apparatus for an animal, to look to Chung for a solution pertaining to administration of treatment. Because the rejections of claims 1-3, 6, 10, 11, 14-19 are based upon adding Chung features to a Gullino device, these rejections are improper and must be withdrawn.

Adding Peterson features to a Gullino device

The Examiner rejected dependent claim 6, which recites an apparatus comprising a front panel that defines a window, and further comprising a grate covering the window. The Examiner asserted that Gullino discloses a window 14. The Examiner acknowledged that Gullino does not disclose a grate, but declared that Peterson teaches a grate, and once again declared that it would have been obvious to modify the Gullino device to include a Peterson grate.

Gullino does not disclose a window, but rather discloses a cage made of a clear material such as plexiglass (Gullino col. 2, lines 17-20, Figs. 1-2). Peterson does not disclose a grate on a window, but rather discloses a cage made of rectilinear wire mesh (Gullino col. 2, lines 54-55). Even if Gullino did disclose a window and even if Peterson did disclose a grate, one skilled in the art would not be motivated to add a Peterson structure to a Gullino device. One skilled in the art would not combine a piece of transparent material such as plexiglass with wire mesh to create a window covered by a grate. Such a combination would not result in the benefit identified by the Examiner, i.e., a cage that would not restrict airflow. Placing a wire mesh on a piece of

plexiglass does nothing to affect the airflow. There would be no motivation for one skilled in the art to do it.

Adding Thrun features to a Gullino device

The Examiner rejected independent claim 7 and dependent claims 2, 8-10, 14 and 15, which recite top panels coupled to a housing, asserting that it would have been obvious to one skilled in the art to apply Thrun panels to the Gullino device, to allow access to the enclosure. Applicant has amended claim 7 to include limitations of claim 8, and has cancelled claim 8.

Claim 7 recites a housing “sized to receive an animal and to confine the animal during therapeutic treatment.” Thrun is not directed to the field of the Applicant’s endeavor, nor is Thrun reasonably pertinent to the particular problem with which Applicant was concerned. Thrun therefore fails the test of In re Oetiker, 24 USPQ2d at 1445. The Thrun device is not directed to a cover for an enclosure or housing used to confine an animal during therapeutic treatment. Rather, Thrun is directed to a cover for an enclosure to hold a pet such as a ferret, hamster, gerbil, snake, chameleon, insect or arachnid. Thrun col. 1., lines 18-24. In other words, the Thrun device is a cover designed for a an enclosure in which an animal lives on a day-to-day basis, not an enclosure in which an animal is confined during therapeutic treatment.

There is no mention in Thrun of animal sickness, treatment or therapy. On the contrary, a pet in an enclosure described by Thrun, unlike an animal receiving therapy, is given considerable freedom of movement. Moreover, a pet in an enclosure described by Thrun is, when the doors are closed, isolated from the outside world. The Thrun device is, in normal use, *completely* closed to prevent animal escapes. Applicant’s claimed device, by contrast, balances animal confinement with simultaneous access to the animal by the caregiver. As will be discussed in more detail below, the Thrun device does not accommodate this balance. One skilled in the art would not look to Thrun for a cover for a housing that confines an animal during therapeutic treatment.

Adding Carlin features to a Gullino device

The Examiner rejected dependent claims 16-19, based upon Gullino as modified by Chung and Carlin. Claims 16 and 17 depend on independent claim 1, and claims 18 and 19

depend on independent claim 11. Claims 16 and 18 recite a post coupled to the housing, the post supporting the syringe cradle. Claims 17 and 19 recite a fluid container support that is crook-shaped.

Carlin is a design patent with no descriptive text, other than “The ornamental design for an animal cage-mounted support.” Carlin does seem to be directed to Applicant’s field of endeavor, but the Examiner still has no evidentiary basis for adding features of the Carlin device to the Gullino device.

In re Lee, 61 USPQ2d at 1433 and other legal authorities mandate that there must be a reason or motivation for making adding Carlin features to a Gullino device. There is none. Adding a Carlin device to the Gullino device would merely be adding superfluous or redundant features, and one skilled in the art would not be motivated to add superfluous or redundant features.

There is no motivation to modify the Gullino device by adding a post as disclosed by Carlin, plus a Chung clamping frame. As already noted, there is no syringe disclosed by Gullino. Consequently, coupling a Chung device to a Gullino device would be completely superfluous. It follows that coupling a Chung device *and a Carlin* device to a Gullino device would be just as superfluous. There would be no motivation for a person skilled in the art to attach a post to the Gullino device to support a syringe cradle that itself is not needed with the Gullino device.

Similarly, there would be no motivation to modify the Gullino device by adding a crook-shaped fluid support. Gullino discloses a water bottle 33 secured with a securing strap 34. Gullino col. 3, lines 32. The Examiner has identified securing strap 34 with a “fluid container support.” Because bottle 33 is held by strap 34, adding a crook-shaped Carlin device as a fluid container support would serve no purpose. There is no indication in Gullino that *a second* fluid container support would be desirable (i.e., a crook-shaped support and a strap), nor is there any hint in Gullino that a crook-shaped support could replace strap 34, nor is there any suggestion in Gullino that bottle 33 could be suspended from a crook-shaped support. Accordingly, one skilled in the art would not be motivated to add Carlin features to a Gullino device.

Clearly, the Examiner has taken elements from different references and tried to reconstruct the Applicant’s claimed invention from those elements. This is plainly a

reconstruction of the claimed invention from hindsight, and such reconstruction is plainly improper under the legal authorities cited above.

Syringe cradle

Claims 1-3, 6, 10, 11 and 14-19 recite a syringe cradle. The Examiner declared that Chung discloses a syringe cradle. The Examiner is incorrect. Chung does not disclose a syringe cradle.

As noted above, there is no element in Gullino that could mate with the Chung device, therefore, the Chung device would be superfluous and would be “cradling” nothing. Moreover, the Chung holder is not a cradle, but a specially designed “clamping frame.” Rather than holding a syringe for use, the Chung device locks a syringe in place so that extreme pressure may be applied via a pressure plate driven by a turning handle coupled to a threaded shaft. Turning the handle will rotate the threaded shaft, causing the pressure plate to drive water into a gel tube to extrude the gel from the gel tube (Chung, cols. 1-2). The locking bar 27, lock down bolt 29, threaded shaft 31, and pressure plate 33 of the Chung device would impede the insertion of a syringe into the Chung device and would further impede use of a syringe in an ordinary fashion. In short, the Chung device includes structures that would prevent the Chung device from functioning as a syringe cradle.

Because Chung does not disclose a syringe cradle, the objections to claims 1-3, 6, 10, 11 and 14-19 should be withdrawn.

“Coupled to”

Claims 1-3, 6, 10, 11 and 14-19 recite a syringe cradle “coupled to” another structure, such as a housing, a fluid container support or a post. In rejecting these claims, the Examiner simply assumed that a Chung device would be attached or “coupled to” a Gullino device. There is nothing in the record to support this assumption.

There is nothing in Chung that suggests that the Chung device is coupled to any other structure. On the contrary, the Chung device is depicted as a “stand-alone” device. Locking clamp 21 includes no brackets, screw holes or any other structures to suggest that it is intended to be, or that it could be, coupled to any other structure. Because Chung does not disclose a syringe

cradle that is or could be “coupled to” another structure, the objections to claims 1-3, 6, 10, 11 and 14-19 should be withdrawn.

Top panels that cover less than one hundred percent of the top opening

Independent claim 7, as amended, recites an apparatus comprising a housing sized to receive an animal and to confine the animal during therapeutic treatment, wherein the housing defines a top opening. Claim 7 further recites a first top panel hingedly coupled to the housing and a second top panel hingedly coupled to the housing, the first and second top panels being selectively positionable to cover at least a portion of the top opening.

Claim 7, as amended, further recites that the first and second top panels when in a closed position cover less than one hundred percent of the top opening. This recitation formerly was included in claim 8, but has been incorporated into claim 7. The recitation is therefore also incorporated into claims 9 and 10, which depend on claim 7. Claim 8 has been cancelled.

Claim 15, which depends on claim 11, also recites top panels that cover less than one hundred percent of the top opening. Claims 2, 3 and 14 recite top panels without the restriction pertaining to less than one hundred percent of the top opening. Claims 2 and 3 depend on independent claim 1, however, and claim 14 depends upon independent claim 11. Because independent claims 1 and 11 are in condition for allowance, claims 2, 3, 14 and 15 are in condition for allowance as well.

The Examiner rejected claims 8 and 15, citing Gullino as modified by Chung as modified by Thrun. The Examiner asserted that Thrun discloses a first and second top panel hingedly attached to the housing and that the panels are selectively positionable to cover at least a portion of the opening, as they can be opened independently of one another, and also that Thrun also discloses panels covering less than one hundred percent of the top opening in the closed position. The Examiner cited, as support for this assertion, Fig. 5 of Thrun.

The Examiner is incorrect. Thrun does not disclose panels covering less than one hundred percent of the top opening when the panels are in the closed position. None of the Thrun figures depicts doors covering less than 100 percent of the opening when in the closed position. On the contrary, the Thrun figures and text both clearly state that when the doors are in the closed position, the top opening includes no openings that might allow an animal (including a

small animal such as an insect) to escape. As noted above, the Thrun device, when the doors are closed, isolates the animal from the outside world to prevent animal escapes. E.g. Thrun col. 4, lines 4-6 (the device “does not provide an open aperture through which animals may escape”). Unlike the Applicant’s claimed device, which balances animal confinement with simultaneous access to the animal by the caregiver, Thrun does not accommodate such a balance. When the Thrun doors are closed, the caregiver has no access to the animal, and the animal has no opportunity to escape.

Thrun does not disclose top panels that cover less than one hundred percent of the top opening, as recited in claims 7, as amended, 9, 10 and 15. These claims are in condition for allowance.

Clasp

Claim 3 recites a clasp configured to secure a top panel in a closed position. Claim 3 depends upon claim 2, which recites a first top panel and a second top panel hingedly coupled to a housing, the panels being selectively positionable. The Examiner rejected claim 3, asserting that Gullino discloses a securing device 20, which holds the unit (presumably the Examiner intended to refer to cover 16) in place by a gripping means.

Claim 3 depends upon claim 2, which in turn depends upon claim 1. Claims 1 and 2 are in condition for allowance, and therefore claim 3 is also in condition for allowance.

Furthermore, Gullino does not disclose a clasp. Items 20 are screw devices that “firmly anchor the base 12, the wire mesh screen 13, and the four walls 14 together” (Gullino col. 2, lines 44-46). Screw devices 20 do not couple to cover 16, and do not secure cover 16 in a closed position. Moreover, cover 16 is not hingedly coupled to a housing and selectively positionable, as required by claim 3. The Examiner’s reliance upon Gullino is misplaced. Claim 3 is in condition for allowance.

Window

Claim 6 recites an apparatus comprising a front panel that defines a window, and further comprising a grate covering the window. The Examiner rejected claim 6, declaring that discloses a window 14 and Peterson teaches a grate. As noted above, one skilled in the art would not be

motivated to add a mesh from Peterson onto a plexiglass panel from Gullino. Even if one skilled in the art were to do so, however, Applicant's invention would not result.

Claim 6 recites that front panel that defines a window. In other words, claim 6 recites a front panel and a window as distinguishable structures, with the window being defined by the front panel. The Examiner asserted that the structure in Gullino numbered 14 is *both* a panel and a window. Thus, Gullino does not disclose a distinguishable panel and window, as recited in claim 6.

Claim 6 further recites a grate covering the window. In other words, claim 6 recites a front panel, a window and a grate as distinguishable structures. Peterson describes a cage wire mesh, not a grate as recited in claim 6. The mesh in Peterson does admit air, but it does not block a passage such as window. Nor is the Peterson mesh distinguishable from a panel. On the contrary, the mesh in Peterson serves the same function as a panel. Combining a Gullino plexiglass panel with a Peterson wire mesh panel would not produce the Applicant's invention as recited in claim 6, i.e., an apparatus comprising a front panel that defines a window, and further comprising a grate covering the window.

In addition, claim 6 depends on claim 1. Claim 1 is in condition for allowance, and therefore claim 6 also is in condition for allowance.

Conclusion

All claims in this application are in condition for allowance. Applicant respectfully requests reconsideration and prompt allowance of all pending claims. Please charge any additional fees or credit any overpayment to deposit account number 50-1778. The Examiner is invited to telephone the below-signed attorney to discuss this application.

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13 March 2003
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VERSION SHOWING CHANGES PURSUANT TO 37 CFR § 1.121(c)(ii)

7. (Once amended) An apparatus comprising:
- a housing sized to receive an animal and to confine the animal during therapeutic treatment, wherein the housing defines a top opening;
 - a first top panel hingedly coupled to the housing; and
 - a second top panel hingedly coupled to the housing, the first and second top panels being selectively positionable to cover at least a portion of the top opening;
- wherein the first and second top panels when in a closed position cover less than one hundred percent of the top opening.

[8. The apparatus of claim 7, wherein the first and second top panels when in the closed position cover less than one hundred percent of the top opening.]